

I.C.R. 29.1. Motion for Mistrial

Idaho Criminal Rule 29.1. Motion for Mistrial.

At any time during a trial, the court may declare a mistrial and order a new trial of the indictment, information or complaint under the following circumstances:

(a) Upon motion of defendant. A mistrial may be declared upon motion of the defendant, when there occurs during the trial an error or legal defect in the proceedings, or conduct inside or outside the courtroom, which is prejudicial to the defendant and deprives the defendant of a fair trial. When such an error, defect or conduct occurs during the joint trial of two (2) or more defendants, and a mistrial motion is made by one or more, but not by all, the court must declare a mistrial only as to the defendant or defendants making or joining in the motion, and the trial of the other defendant or defendants must proceed.

(b) Upon motion of state. A mistrial may be declared upon motion of the state, when there occurs during the trial, either inside or outside the courtroom, misconduct by the defendant, the defendant's attorney or attorneys, or some other person acting on defendant's behalf, resulting in substantial prejudice to the state's case. When such misconduct occurs during a joint trial of two (2) or more defendants, and when the court is satisfied that it did not result in substantial prejudice to the state's case as against a particular defendant, and that such defendant was in no way responsible for the misconduct, it may proceed with the trial with respect to that defendant.

(c) When verdict not possible. A mistrial may be declared upon motion of either party or upon the court's own motion when it is impossible to proceed with the trial in conformity with law, or when, after jury advice, the court is convinced that the jury cannot reach a verdict.

(Adopted December 27, 1979, effective July 1, 1980.)

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